

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARK JOHNSON,

Plaintiff,

v.

Case No. 14-11896

Honorable Denise Page Hood

DANIEL H. HEYNS, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter is before the Court on Magistrate Judge Michael J. Hluchaniuk's Report and Recommendation [**Docket No. 23, filed January 23, 2015**] on the Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(B)(6) filed by Defendant Daniel H Heyns [**Docket No. 10, filed June 24, 2014**], and the Motion to Dismiss filed by Defendants State of Michigan Legislature and Keith Barber [**Docket No. 18, filed October 28, 2014**].

Neither Plaintiff nor Defendants filed an objection to the Magistrate Judge's Report and Recommendation. For the reasons stated below, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation in its entirety. Plaintiff's Complaint is **DISMISSED** with prejudice pursuant to Federal Rule of Civil

Procedure 41(b). The pending motions to dismiss [**Docket Nos. 10 & 18**] are **TERMINATED** as **MOOT**

The Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* Objections to the Report and Recommendation must be timely and specific. *See* Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981) (“The filing of objections provides the district court with the opportunity to consider the specific contentions of the parties and to correct any errors immediately.”)

“[O]nly those specific objections to the magistrate’s report made to the district court will be preserved for appellate review; making some objections but failing to raise others will not preserve all the objections a party may have.” *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). “An ‘objection’ that does nothing more than state a disagreement with a magistrate’s suggested resolution, or simply summarizes what has been presented before, is” insufficient. *Aldrich v. Bock*, 327 F. Supp. 2d 743, 747 (E.D. Mich. 2004). A party’s failure to file any objections waives his or her right to further appeal, *see*

Smith, 829 F.2d at 1373, and relieves the Court from its duty to review the matter independently. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Under to Fed. R. Civ. P. 41(b), the Court has the authority to *sua sponte* dismiss a claim for failure to prosecute or comply with an order. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-32 (1962). In this case, Plaintiff has failed to comply with Court orders requiring him to respond to the Defendants' dispositive motions.

The Court notes that the Magistrate Judge also notified the parties of their right to "seek review of this Report and Recommendation" and reminded them of the timeline in which to do so. As previously stated, neither Plaintiff nor Defendants have filed any objections to the Magistrate Judge's January 23, 2015, Report and Recommendation. The Court accepts the Magistrate Judge's Report and Recommendation as this Court's findings of fact and conclusions of law.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Michael J. Hluchaniuk [**Docket No. 23, filed January 23, 2015**] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that the Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(B)(6) filed by Defendant Daniel H Heyns [**Docket No. 10, filed June 24, 2014**] is deemed **MOOT**.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendants State of Michigan Legislature and Keith Barber [**Docket No. 18, filed October 28, 2014**] is deemed **MOOT**.

IT IS FURTHER ORDERED that the case is **DISMISSED** with prejudice.

IT IS SO ORDERED.

s/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: March 18, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 18, 2015, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager